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The Solicitors' Journal

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Current Topics.

Judicial Heredity.

THE ANNOUNCEMENT that Lord ORMIDALE of the Scots Bench has intimated his intention to retire at the beginning of this month is a reminder that in Scotland, just as in England, judicial blood flows in the veins of certain families. The learned lord is the second to bear the judicial title of Lord ORMIDALE, his father having held it before him. It is curious that both in England and in Scotland there is an instance of three generations in a direct line holding judicial office, and in each instance, too, the second in the line attained the highest rank. In England the COLERIDGES were represented by Mr. Justice COLERIDGE, the friend of Dr. ARNOLD and the learned editor of the best edition of "Blackstone's Commentaries," secondly, by Lord Chief Justice COLERIDGE, and thirdly by the late Lord COLERIDGE. The Scottish family with a parallel record was that of the MONCREIFFS, the first of the judicial line being JAMES MONCREIFF, who was one of the leaders of the Bar in the early decades of last century, and became Dean of Faculty before his promotion to the Bench; his son, also JAMES, after holding office as Lord Advocate for several years, became Lord Justice-Clerk, that is President of the Second Division of the Court of Session; while his son, HENRY, also became a judge as Lord MONCREIFF. In England we have, of course, many instances of two generations being represented on the Bench; for instance, at the present time we have Lord Justice ROMER, Mr. Justice FINLAY, Mr. Justice MACNAGHTEN and Mr. Justice LAWRENCE, each of them sons of former distinguished occupants of the Bench.

Curves of Litigation.

IN THESE days of the popularity of statistics and index numbers it may be of interest to observe the recent curves of litigation, that is, to note what classes of case bulk most largely in the Digests. It has, of course, to be borne in mind that the number of cases reported is only a fraction of those actually decided in the courts, but the reports give an approximate estimate as to the classes of actions which at any particular time are the most common. It is curious to note how the numbers vary at different times. A few years ago, before the multitudinous conundrums set by the Rent Restriction Acts had been solved, the cases under the caption "Landlord and Tenant" were swollen enormously, and the Digests bore indubitable testimony to the frequency with which actions affecting tenancies came before the courts. Now, if we take the latest issue of the Law Reports Digest we shall see that the whole subject of landlord and tenant is comprised within five columns, and of these not quite a column is required for cases under the much-discussed Acts. Again, appeals under the Workmen's Compensation Acts have shrunk very markedly although there is still a fair number, chiefly on questions of fact. As might be expected, the subject of "Revenue" is for the moment predominant in the Digest, no fewer than twenty columns being required to give the headnotes to the cases. With the income tax at its present abnormally high rate everyone is naturally disposed to examine his assessment with meticulous care and to contest every apparent overcharge, with the result that the judge taking revenue cases is kept busily employed in solving the problems set by the Income Tax Act and applying its provisions to the complicated facts of individual cases. Another subject which bulks largely and competes with revenue for first place is "Shipping." The large number of shipping cases may not at first seem so easily explicable as the number appearing in the revenue list, but although the kind of case with which practitioners in the commercial court are concerned has declined in sympathy with the decline in shipping, which we all deplore, shipping still goes on and collisions are unfortunately of almost everyday occurrence, echoes of which are heard in the Admiralty Court. Insurance in its various branches has taken an upward trend, more especially in connection with motor cars, which are gaining an unenviable notoriety in these days for the number of accidents they cause. Lastly, the interpretation of wills, which formerly constituted no small part of the work of the Chancery Division, seems to have fallen away, but whether this is due to the more careful draftsmanship of these documents we shall not venture to affirm.

Costs in Actions against Public and Local Authorities.

GENERALLY SPEAKING a successful plaintiff, in an action against a public or local authority, is awarded party and party costs. But under the Public Authorities Protection Act, 1893, judgment for the defendant carries with it costs as between solicitor and client. In the majority of cases therefore an individual desirous of questioning the legality of any action of a local or public authority is, from the start, prejudiced by the fear of heavy costs, particularly in view of the fact that an authority can always afford and is usually anxious to fight the case right up to the House of Lords. Local authorities are, of course, trustees for the ratepayers, and on this ground the system would appear, *primâ facie*, to be justified. But in reality it is this very trusteeship which encourages them to spare no expense in the conduct of their case, and the fact that they have unlimited resources makes very onerous the position of a plaintiff who, even when he is successful, is still usually faced with a heavy bill of costs. In *Smith* v. *Bullen* (1875), L.R. 19 Eq. 475, MALINS, V.C., said: "It is of great importance to litigants who are unsuccessful that they should not be oppressed by having to pay an excessive amount of costs. The costs chargeable under a taxation between party and party are all that are necessary to enable the adverse party to conduct the litigation, and no more. Any charges merely for conducting litigation more conveniently may be called luxuries, and must be paid

by the party incurring them." These are the principles of party and party taxation and there would not appear to be any good reason why they should not in fact be applied in cases against local and public authorities. It is probable that in the near future there will be considerable agitation for some alteration of the present system.

Proof of Age.

A PERSON'S AGE may be proved either by the production of his birth certificate (*In the Estate of Goodrich, Payne* v. *Bennett* [1904] P. 138) or by the evidence of a person who was present at his birth (*R.* v. *Nicholls*, 10 Cox 476). These are the simplest methods, and when such evidence is not available the court may be in some little difficulty, as was shown in *R.* v. *Murphy* at the Middlesex Sessions on 27th September. The defendant, who was charged with a breach of his recognizances, contended that he was over twenty-one and therefore not eligible for Borstal treatment. No birth certificate was available, and there was no record of the birth at Somerset House, as the defendant was born in Ireland. It was pointed out by a detective inspector that two years previously the defendant had said that he was eighteen and was born on 29th February, 1912. The court sentenced the defendant to three years in a Borstal institution, holding that he was under twenty-one years of age. A witness's own evidence as to the date of his birth is not strictly admissible (*R.* v. *Rishworth*, 2 Q.B. 476). A learned writer in 50 SOL. J., p. 798, noted the fact that in proceedings before a revising barrister a claimant proposed to testify as to his age, but the barrister disallowed the evidence. The writer pointed out that, strictly speaking, such evidence was mere hearsay, as a person was not capable of knowing anything until an appreciable time after his birth. There appears to be some little conflict on this point, as COLERIDGE, C.J., once allowed a child to prove its own age in a criminal case (Hall, "Law of Children," 3rd ed., 155*n*). It was stated in *R.* v. *Murphy, supra*, that if a person who seemed to the court to be under twenty-one disputed the fact, the onus lay upon him to disprove it. In *R.* v. *Viasani* (1866), 31 J.P. 260, it was held that it was open to a magistrate to judge the age of a child by inspection, and in s. 141 of the Education Act, 1921, it is provided that where a child or young person is apparently of the age alleged for the purpose of any proceeding under the Act or a bye-law made thereunder it shall lie on the defendant to prove that the child or young person is not of that age. In any case the opinions of witnesses as to age are always receivable, and in *R.* v. *Cox* [1898] 1 Q.B. 179, it was held, in a prosecution for unlawfully and wilfully neglecting children under the age of sixteen contrary to the Prevention of Cruelty to Children Act, 1894, where the children were not before the court, that the evidence of two persons who had seen the children and stated what they believed to be their ages and that of a mistress of a school at which the children attended constituted evidence proper to be left to a jury. The case at the Middlesex Sessions reaffirms the principle that a person's own evidence is inadmissible to prove his age, in spite of the fact that the defendant in that case was "just at the age twixt boy and youth, when thought is speech and speech is truth."

The Law Society's Provincial Meeting.

THE FORTY-EIGHTH Provincial Meeting of The Law Society is to be held at The University, Bristol, on Tuesday and Wednesday of next week, and the course of procedure to be adopted at the meeting, as settled by the Council of The Law Society, appears at p. 671 of this issue. A full report of the proceedings, together with the various papers read at the meeting, will be published in successive issues of THE SOLICITORS' JOURNAL, commencing with that of 8th October, which will be the Special Law Society Number and will also contain a photogravure portrait of the President of The Law Society, Mr. Charles Edward Barry, of Bristol.

Corroboration by Silence.

REFERENCE to any book of quotations will show that a vast amount of eloquence has been expended by poets, writers, statesmen and philosophers of all nations in praising silence. In the forensic world, its chief value is as a factor to be taken into account when deciding an issue of fact. Juries and judges sitting as juries draw inferences from silence just as bridge players do. As BRAMWELL, L.J., put it in *Bessela* v. *Stern* (1877), 2 C.P.D. 265, at p. 272: "The defendant made no answer. If we were to hold that that was no evidence of a promise, we should get rid of a great deal of evidence which is given every day at *nisi prius*. A claim is made on a man in respect of goods sold and delivered, and he does not deny it . . . If two persons have a conversation, in which one of them makes a statement to the disadvantage of the other, and the latter does not deny it, there is evidence of an admission that the statement is correct"; and in *Wiedemann* v. *Walpole* [1891] 2 Q.B. 534, C.A., Lord ESHER, M.R., said, at p. 537: "Now there are cases—business and mercantile cases—in which the courts have taken notice that, in the ordinary course of business, if one man of business states in a letter to another that he has agreed to do certain things the person who has received that letter must answer it if he means to dispute the fact that he did so agree."

The general principles so expressed are, of course, applied every day, and as they relate to matters of fact rather than of law, discussion on their validity rarely finds its way into the law reports. It is only when the law insists on corroborative evidence to support an allegation of fact that the question whether silence can or cannot constitute corroboration is examined, and both the cases from which I have cited were in fact actions for breach of promise of marriage.

In *Bessela* v. *Stern*, the plaintiff's sister had deposed to having been present on an occasion when the defendant had visited the plaintiff. It was soon after the birth of a child, of which the defendant was admittedly the father. The plaintiff said, according to her sister: "You always promised to marry me, and you don't keep your word"; the defendant then said he would give the plaintiff money to go away, and followed this evasive answer up with the remark: "Why did not you make away with the little devil?" The Commissioner of Assize who tried the case at first instance ruled that the failure to reply to the allegation of a promise was evidence; in the Divisional Court, one judge considered that the remark as to the child actually negatived the idea of marriage, and the other agreed that it was more consistent with another relationship; but in the Court of Appeal it was pointed out that this was weighing the evidence, not considering whether there was any. "The defendant makes no answer. It is true that he offered her money to go away, and it might be that a man might say, 'What shall I give you to go away?' without having made any promise to marry; but, on the other hand, *there is his silence, and from that silence* the jury might come to the conclusion that he admitted the promise. I think the verdict is against the evidence, but I cannot say that there was no evidence . . ." said COCKBURN, L.J. BRAMWELL, L.J., framed the general principle as follows: "If a statement is such that a denial of it is not to be expected, then silence is no admission of its truth; but if two persons . . ." and then followed what I have already cited in the opening paragraph.

But in *Wiedemann* v. *Walpole*, the defendant's failure to answer letters written by the plaintiff, by her brother-in-law, and by her spiritual adviser was relied upon; all letters except that of the brother-in-law expressly referred to a promise to marry, and the one written by the clergyman also contained a threat to set the law in motion; and the court was most emphatic in ruling that there was no corroboration. ESHER, M.R., said the case was quite unlike "business" cases, and that a letter charging an offence, or meanness,

was best left unanswered; but he would not say there might not be cases in which, having regard to the correspondence and the circumstances, the not answering of one letter in a correspondence between a man and a woman would or might not amount to an admission. BOWEN, L.J., said: "It would be a monstrous thing if the mere fact of not answering a letter which charges a man with some misconduct was held to be evidence of an admission by him that he had been guilty of it. There must be some limitation placed upon the doctrine . . . Silence is not evidence of an admission, unless there are circumstances which render it more reasonably probable that a man would answer a charge made against him than that he would not." And KAY, L.J., also stressed the importance of circumstances. In only one judgment was *Bessela* v. *Stern* referred to, BOWEN, L.J., remarking that it was "very different," the circumstances under which the sister's statement was made being such that, in the opinion of the court, non-denial was evidence of admission. More recently *Wiedemann* v. *Walpole* was mentioned with approval by VAUGHAN WILLIAMS, L.J., in *Spooner* v. *Godfrey*, reported in *The Times*, 16th October, 1908: "Under some circumstances the not answering letters might be treated as an admission. But the question was whether the court could find any evidence which would justify them in treating the not answering these letters as some evidence of an admission."

In all these judgments a good deal was made of "circumstances," the existence or non-existence of which is continually referred to; but it would neither be fair to say that there nothing is indicated as to the kind of circumstance which is important, nor accurate to say that the indications are very definite. It appears, then, that silence is most significant in (1) "business men's cases"; (2) cases in which the person addressed is a "good correspondent" (or a ready speaker); (3) cases in which the person addressed is not only invited to reply, but is taxed with some misconduct. In the first class of case, both the nature of the matter and the nature of the parties are important; in the second class, the nature of the parties, and in the third that of the matter is the dominant consideration.

Whether failure to give evidence has any value seems doubtful. In another breach of promise of marriage case, *Willcox* v. *Gotfrey* (1872), 26 L.T. 328, the report of the hearing at Assizes states that the summing-up of BRAMWELL, B., concluded as follows: "The defendant might go into the box and contradict the promise upon oath, if it were not true. He has not done so, and you will draw your own inference from that and say if that does or does not confirm in your judgments the statement of the plaintiff that he had promised her marriage, and if such is your opinion, I shall hold it to be in point of law a sufficient confirmation of the promise under the provisions of the recent statute." But the case was complicated by a ruling in the same judgment that corroboration could not precede a promise, and when a rule *nisi* was obtained by the defendant, this point alone was argued: *ib.*, p. 481. The Court of Exchequer were agreed that evidence of a promise could be corroborated by evidence of events preceding the date of the alleged promise; but as the reasoning shows that in their view BRAMWELL, B., had, at *nisi prius*, confused corroboration with confirmation—in other words, that he had missed the point of the recent statute, which dealt, not with the law of contract, as his judgment suggests, but with the law of evidence—it would seem that the second ruling must be unsound. Indeed, if this were not so, it might become dangerous to make a submission on behalf of a defendant at the close of the plaintiff's case. In fact, a point of this kind arose in *Thomas* v. *Shirley* (1862), 11 W.R. 21, heard before the Evidence Further Amendment Act was passed. The claim for breach of promise of marriage had originally failed; but there was another action for money spent on a wedding-dress, etc., at the plaintiff's request, which was referred; and when at the reference the defendant was not put into the box, the plaintiff's advisers applied for a new trial of the first action. But the court ruled that no implication could arise from silence in another proceeding, and all it showed was that the defendant's advisers did not consider it advisable or material to call him.

In criminal cases, everyone knows the question much favoured by some prosecutors: "Why didn't you say anything when arrested"? (or when charged—or when committed); the silence being used as a makeweight, with varying effect. But in one case it has actually been held to be evidence of corroboration, namely, when the only other evidence was given by accomplices, so that corroboration was desirable though not essential. The appellant in *R.* v. *Marks Feigenbaum* [1919] 1 K.B. 431, C.C.A., had been convicted of inciting to steal, on evidence given by boys alleged to have been incited, and by the officer who had arrested him and then said: "I have arrested three lads to-night [giving their names] whom I saw stealing from a van a sack of horse mixture, and they say you sent them out for it, and that on the previous Monday they stole a sack of horse provender and you gave them 1s. for it, and that on the Friday previous, for stealing some provender, you gave them 6d."; to this the appellant had made no reply, and the trial judge told the jury that the failure to answer might be corroborative evidence. In his judgment, DARLING, J., said: "The failure of the appellant to make any reply to the statement might . . . having regard to the nature of the statement and the circumstances in which it was made, be considered as being a corroboration." The nature of the contents of the statement made probably influenced the jury in this case more than the circumstances relating to the natures of the parties. One might recall the fact that WILLIAM THE SILENT acquired his sobriquet when his failure to reply was misinterpreted as assent; but the supposed assent was to a plot unfolded to him, and not to the terms of an accusation made against him.

The Agent of Necessity.

SOME time ago, at a Lincolnshire County Court, a case was decided in which a dispute had arisen about the price of strawberries delivered by a grower to a retailer. The strawberries were alleged to have been sold as "eating" strawberries; but the defendant against whom the claim was made alleged that a large proportion when delivered to him were bad and unfit for eating; thereupon he sold this portion for the best price he could obtain from a jam-maker. The judge found that a certain proportion, as alleged, were not a merchantable quality as good sound "eating" fruit. The defendant was entitled to set up against the plaintiffs this breach of warranty in diminution of the original price. Such diminution was based on the difference between the price on the market, and the price when sold for jam. He held that defendant was justified in constituting himself an "agent of necessity," and in selling the fruit for the best price obtainable, and judgment was given accordingly for the amount claimed less the difference between the agreed price and the realised price of what was sold for jam-making.

The above case provides an excellent and homely illustration of the law touching "Agency of Necessity." According to "Halsbury's Laws of England," Vol. 1, at p. 157, this agency arises wherever a duty is imposed upon a person to act on behalf of another apart from contract, and in circumstances of emergency, in order to prevent irreparable injury. It may also arise where a person carries out the legal or moral duties of another in the absence or default of that other or acts in his interest to preserve his property from destruction. The doctrine, we are told, has a limited application probably confined to cases in which there is a contractual relationship of some kind, express or implied, in existence already. The occurrence of exceptional circumstances during the carrying

out of the act of agency, from the nature of the contract itself, necessitates its extension in the interests both of principal and agent—of the principal because otherwise his property or interests would be sacrificed; of the agent so that he shall have the necessary authority to preserve them and acquire rights against third parties for his principal and against the principal in respect of his own interests. This necessary authority only arises where there is urgent necessity; and if questioned it will lie upon the party contracting with the agent to show that such was the nature of the circumstances. At the same time, though a strong case is required, it is not essential that any other course should be an impossibility; the real issue is what would a prudent man do in the circumstances?

There is a considerable body of case law bearing on the subject, which shows the variety of circumstances under which it may arise. One batch of these cases arises out of what may be called railway accident emergencies. Thus in *Walker* v. *Great Western Rly.* (1867), L.R. 2 Ex. 228, it was held that the district or local manager of a railway company could bind the company to pay for the surgical treatment of an injured servant of his company; but in *Cox* v. *Midland Counties Railway Co.* (1849), 3 Ex. 268, it had been held that a railway guard or stationmaster or other servant had no authority to bind the company by contracts for the surgical treatment of injured passengers, and that the company is not liable to pay for such attention without evidence of express authority to do so. The distinction between these two cases would seem to lie in the rank of the official giving the instructions and also in the attendant circumstances.

In *Langan* v. *Great Western Rly.* (1873), 20 L.T.R. Ex. Ch., after a railway collision, a number of injured persons were attended to by an inspector of railway police who was on duty at the spot where the accident occurred, and various supplies were ordered by him, including brandy, etc., several of the injured being removed to an inn kept by the plaintiff. It was held, in an action to recover the cost of board and lodging and necessaries supplied, that there was justification for the orders given, and that the inspector had authority to pledge the company's credit in the circumstances. Yet again, in *Great Northern Rly.* v. *Swaffield* (1874), L.R. 9 Exch. 132, the plaintiff company were held to have acted reasonably in sending a horse to a livery-stable keeper which defendant had sent to one of their stations where there was no accommodation for it, late at night, where there was no one to meet it and the horse required food and attention. Defendant was ordered to pay the livery stable charges.

A very large proportion of the reported "agency of necessity" cases arise out of the relations between husband and wife and out of marine eventualities. In the former series of cases the issue generally resolves itself into the question of what are necessaries. In *Baseley* v. *Forder* (1868), 32 J.P. 550, the defendant's wife was living apart from her husband in justifiable circumstances and the plaintiff supplied her with clothing for her children, she having insufficient means. The court held that in the circumstances of the case the defendant being in fault, the wife was entitled to pledge his credit for her reasonable expenses, and the plaintiff who supplied her needs was entitled to recover. This was followed in *Collins* v. *Cory* (1901), 17 T.L.R. 242, where it was held that a wife who is forced by her husband's conduct to live apart from him has implied authority to pledge her husband's credit for education fees. These are illustrations of a long series of cases bringing out the same principle.

As regards shipping cases, these are very numerous and the issues are various arising out of many different sets of circumstances. Apart from contractual issues which frequently arise, the ultimate issue is the same, viz., whether the expense incurred was necessary to save persons or property from destruction, and whether the action was in the circumstances what a prudent shipmaster would have taken in the interests of all concerned and of his owners in particular.

Company Law and Practice.

CXLIX.

THE BORROWING POWERS OF COMPANIES.—II.

Last week I dealt in these columns with the general principles governing the borrowing powers of companies, and in this connection I pointed out that a borrowing transaction which is *ultra vires* the company is, in general, of no effect as far as the creation of a debt is concerned, and that the securities which have been given for the repayment of the debt are in most circumstances void. In some cases it may be that the lender will not be entirely without remedy in respect of moneys which he has advanced on loan to a company, which either has no power to borrow, or having such power exceeds some limit imposed thereon, or exercises it in a manner inconsistent with restrictions which may affect its exercise. The position of such a lender was fully examined by the House of Lords in the well-known case of the *Birbeck Building Society*, reported as *Sinclair* v. *Brougham* in [1914] A.C. 398. I would remind my readers that in that case the society was empowered by its rules to borrow up to an unlimited extent, but started and developed a banking business, which was subsequently held to be *ultra vires*, as being beyond the proper objects of the society. So in respect of persons who had deposited money with the company *qua* their banking business, the company had no power to contract the loans. That being the position, the loan transactions, as we have already seen, could not give rise to any indebtedness on the part of the company to the depositors either at law or in equity. There could not therefore be an action open to the lender for money had and received, because, as was pointed out by Lord Parker (at p. 440), to allow such an action would amount to a validation of the transaction "so far as it embodied a contract to repay the money lent." Nor will the lender be entitled to any right or claim which can be the foundation of a winding-up petition. But this case of *Sinclair* v. *Brougham* does give authority to certain propositions which entitle a lender who finds himself in so unfortunate a position to some remedies. In the first place, we ought to notice that, although no debt is created as between the company and the lender on an *ultra vires* borrowing, if the company in fact repay the money to the lender, they will not have an action to recover the money so paid, as they will be deemed to be simply returning to the lender the latter's own money—but this is apparently only the case if it cannot be proved that the money originally advanced to the company has been lost by it.

Secondly, if the borrowed money is applied in paying off legitimate indebtedness of the company (whether the indebtedness is incurred before or after the loan was made), the lender is entitled to rank as a creditor of the company to the extent to which the loan was so applied. He is in fact entitled to be subrogated to the rights of the debtor as against the company in respect of the amount of the debt so paid. Lord Parker expresses a doubt as to whether this rule is really based on subrogation, or is arrived at by treating the contract of loan as validated to the extent to which the borrowed money was applied in discharging the indebtedness, on the ground that to that extent there was no increase in such indebtedness, in which case, if the contract of loan involved a security for the money borrowed, the security would be validated to a like extent. And it is to the question of whether or not the indebtedness of the company has in fact been increased or not, as was pointed out by Lord Lindley, M.R., in *Re Wrexham Railway Co.* [1899] 1 Ch. 440, that one's attention must be directed to see if in fact the prohibition against borrowing has been infringed. Because a prohibition against borrowing more than a given sum is only in reality and substance disobeyed when an obligation to pay more than that sum is contracted, and courts of equity have always looked to see whether in this sense the prohibition has been disobeyed or not. So far as the money has been actually applied in discharge of debts or liabilities which could be

enforced against the company, the prohibition against borrowing does not, as we have seen, apply to it. It is interesting to observe that in that case Lord Lindley thought that the subrogation theory was not really required in order to justify the decisions arrived at, but in view of Lord Parker's observations in *Sinclair* v. *Brougham* it is thought that the exact grounds of the lender's rights have not yet been finally determined.

Thirdly, it seems to be settled upon the authorities that if the lender upon an *ultra vires* loan transaction can identify his money in the hands of the company, he will be entitled to a tracing order, and this will also be the case if the money has been employed in the purchase of property. Equity considered the relationship between the directors or agents of the company and the lender to be fiduciary in character, and that the money which was in the former's hands was to all intents and purposes trust money. So, in such a case, the borrowed money, being really the money of the lender, though in the hands of the company or its agents, the lender could call for its return.

But where the money which has been borrowed on an *ultra vires* transaction cannot be so traced by a lender, the ordinary rules of equity with regard to the following of trust moneys, as laid down in *Re Hallett's Estate*, 13 Ch. D. 696, must be applied to the particular facts of the case. This, of course, is treating the moneys which have been borrowed by the company *ultra vires*, or applied *ultra vires* its powers, as misapplied trust moneys. So, in *Sinclair* v. *Brougham*, where questions in the winding up arose as to the priorities between shareholders of the society, outside creditors, and customers of the bank who had deposited money on current or deposit account, the principles of *Re Hallett's Estate* were applied. It was held that the outside creditors having been paid in full, the assets then remaining represented in part moneys which the depositors could follow as having been invalidly borrowed, and partly moneys which the society could follow, as having been wrongfully employed by its directors, as agents, in the banking business. On this reasoning these assets were held to be distributable among the depositors and shareholders *pari passu*, according to the amounts deposited or held by them respectively, but subject to the tracing of any particular depositor or shareholder of his particular money into an asset of the society.

An interesting illustration of the doctrine of *ultra vires*, as applied to loan transactions, is furnished by the decision in *Brougham* v. *Dwyer*, 108 L.T. 504, yet another case arising out of the liquidation of the Birkbeck Building Society.

The liquidator of the society brought an action against a depositor for the amount of the overdraft which he had incurred in respect of the society's banking business. The county court judge apparently thought that "*ultra vires*" and "*illegal*" meant much the same thing, and held that no action for money had and received would lie. The Divisional Court, after pointing out that an *ultra vires* transaction is one which is precluded by the incompetence of the actor, and need not be illegal at all, reversed the decision. Lush, J., pointed out that the contract of loan to the depositor was only no contract because the building society were unable to enter into it. There was nothing wrong in the contract itself or anything illegal in its nature, but the society, being incompetent to make it, it did not exist in point of law, and that, that being the case, there could be no defence to the action.

(*To be continued.*)

Mr. Charles George Scott, solicitor, of Lee, S.E., left property of the gross value of £71,596, with net personalty £67,877. He left: £50 each to his nurses, Miss F. M. Smith and Miss Johnson, if in his service at his death; £100 to his nurse, Miss Mary Brendan McCormach; £300 to his parlourmaid, Emma Beaumont; £50 to his cook, Rose Gillett, if in his service at his death; and £100 to the Solicitors' Benevolent Association.

A Conveyancer's Diary.

Continuing the consideration of decisions during the past legal year, the first case to which I wish to direct attention this week is *Schlesinger and Joseph* v. *Mostyn* [1932] 1 K.B. 349.

Settlement of Policy—Enforcing Covenant to Pay Premium.

This case followed a somewhat interesting course.

The facts were that the plaintiffs, *Schlesinger and Joseph*, were trustees of a marriage settlement, dated in 1919, made on the marriage of the defendant, Sydney Mostyn, with Ruth Bertha Schlesinger. By the settlement the defendant transferred to the plaintiffs a policy of assurance on his own life upon trusts in favour of his wife and children. The defendant covenanted with the trustees that he would not by any act or omission cause or allow the policy thereby assigned to become void and would from time to time duly pay all moneys payable and do all things necessary for keeping on foot the said policy. It was further provided that the trustees might in their absolute discretion apply any income of the settled funds in making any payments for keeping on foot the policy, but that it should not be obligatory on them to enforce any covenant in the settlement on the part of the defendant in reference to the policy, nor to make any payment as aforesaid, and any omission to do so was not to constitute a breach of trust. The trustees were empowered in their discretion to sell or surrender the policy. There was no express covenant by the defendant to reimburse to the trustees any payment made by them to keep the policy on foot.

The defendant, in breach of his covenant, failed to pay a premium of £94 3s. 4d. and the trustees paid it, and also paid £4 14s. 1d., being, according to the report, a "penalty imposed by the insurance company."

The trustees issued a writ in the King's Bench Division against the husband claiming the amount which they had paid for the premium and the "penalty" as money due from him to them. The writ was specially indorsed under Ord. XIV.

It appears that on the matter coming before Hawke, J., leave to sign judgment under Ord. XIV was refused, but the plaintiffs were given leave to amend their claim by adding an alternative claim for damages for breach of covenant.

The plaintiffs, by their amended claim, claimed, alternatively, the sums paid to the insurance company for the premium (but not apparently for the penalty) as damages.

The defendant, while denying damages, paid one shilling into court as sufficient to satisfy the claim.

The action came on for trial before McCardie, J.

It was contended that the trustees were only entitled to nominal damages because the policy had a considerable surrender value and the trustees had power either to surrender or sell it, and, moreover, that they were not liable if they did not enforce the covenant and consequently had suffered no damage.

In a somewhat elaborate judgment, the learned judge held that the action was not properly one for the procedure under Ord. XIV, but was one in which substantial damages should be awarded.

His lordship therefore gave judgment for the amount claimed.

Effect of Divorce on Construction of Marriage Settlement

Another case is *In re Monro's Settlement; Monro* v. *Hill* [1932] W.N. 167, which turned upon the question whether a wife who had divorced her husband and re-married in her erstwhile husband's lifetime had "married again" within the meaning of the settlement made upon their marriage.

The facts in that case were that a marriage settlement made in 1903 comprised property known as "the husband's fund" and property known as "the wife's fund." Clause 3 provided that from and after the husband's death the trustees

of the settlement should pay the income of the husband's fund to the wife "during her life or until she shall marry again." Clause 5 provided that if the husband should survive the wife the trustees should pay to him the income of the wife's fund as therein mentioned. The settlement provided also that from and after the husband's death or re-marriage the trustees should stand possessed of the husband's fund and the income of it in trust for the issue of the marriage as the husband and wife should jointly by deed or the survivor of them by deed or will appoint, and in default of appointment for the children of the marriage. The wife was an infant at the date of the settlement, and by deed executed after she came of age she confirmed it. There was one child of the marriage. Upon the wife's petition a decree absolute was made for the dissolution of the marriage. By an order of the Probate, Divorce and Admiralty Division it was ordered that the marriage settlement should be varied by extinguishing all the husband's rights, powers and interests in the wife's fund. The order did not affect the trusts of the husband's fund. The wife married again before the death of the husband. The husband subsequently died.

The question was whether the income of the husband's fund was, as from his death, payable to the wife during the remainder of her life until she should again marry, and whether the power of appointment over the husband's fund given to the wife as the survivor of the husband and herself was any longer exercisable by her.

Maugham, J., held that the words, "until she shall marry again" were words of futurity, *primâ facie* applying only to marriage after the death of the husband. Accordingly, his lordship held that the marriage which had taken place during the husband's life did not come within those words. It was also held that the income of the husband's fund was payable to the wife until she should marry again, and further that the power of appointment over the husband's fund given to the wife as survivor of the husband and herself was still exercisable by her.

It is to be observed that the question in this case was entirely one of construction. In an earlier case, *Re Crawford's Settlement: Cooke* v. *Gibson* [1905] 1 Ch. 11, there was a covenant by a father in the settlement made on his daughter's marriage, that his executors after his death would pay £10,000 to the trustees of the settlement, which was to be held, in the event, which happened, of there being no issue of the marriage, in trust for the wife, her executors, administrators and assigns "if she shall survive her now intended coverture but if she shall die during her now intended coverture," then in trust for the father, his executors, administrators and assigns. The marriage was dissolved on the husband's petition. Both spouses were living.

It was held that as a matter of construction the words "survive her now intended coverture" could not be read as equivalent to "survive her husband," and that as the coverture had determined by divorce the lady had "survived" the coverture, and was therefore absolutely entitled to the £10,000.

LEGAL & GENERAL ASSURANCE SOCIETY LIMITED.

The directors announce that the following alterations in staff appointments will take effect as from the 1st October, 1932 :—

Mr. G. F. Robinson, F.I.A., who joined the staff of the Society in 1883 will retire from the position of actuary, which he has held since 1921, but will remain in the Society's service in the capacity of consulting actuary.

Mr. H. E. Raynes, F.I.A., F.C.I.I., who has been with the Society since 1901 and who has held the position of secretary since 1924, has been promoted to the position of actuary to the Society.

Mr. H. G. Lafford, F.I.A., now assistant secretary, has been appointed as secretary to the Society.

Mr. E. K. Read, F.I.A., has been appointed as assistant secretary to the Society.

Landlord and Tenant Notebook.

Poultry Farms and the Agricultural Holdings Act.

The interpretation section of the Agricultural Holdings Act, 1923 (s. 57), defines a holding as a "parcel of land . . . which is either wholly agricultural or wholly pastoral, or in part agricultural and as to the residue pastoral," etc. The statute is a consolidating statute, and another section (s. 33), reflects experience acquired at unfortunate litigants' expense (for a discussion of which, see 74 Sol. J. 751). But a question which has not yet been raised, or at all events not yet reported, and which may well lead to argument some day, is: What is the connotation of the term "pastoral"? And at this juncture I may remark that this article is inspired by a practical question put to me the other day, namely, whether a poultry farm would be an agricultural holding within the Act, to which I had to reply (though not in so few words) "I don't know."

The answer must, *primâ facie*, depend on the connotation of the expression "pastoral." The only occasion on which, as far as reports go, that term appears to have been judicially discussed was when *Westropp* v. *Elligott* (1884), 9 A.C. 815, came before the House of Lords. The point was then only one of the points in issue, and it must be borne in mind that there was no argument as to what animals were pastured. The case arose out of the Land Law (Ireland) Act, 1881, the question being whether a certain farm came within the exceptions detailed in s. 53 (1) and (3): "any holding which is not agricultural or pastoral in its character or partly agricultural and partly pastoral"; "any holding let to be used wholly or mainly for the purpose of pasture." The tenant said he had used the premises as a dairy farm, and it appeared that he was in the habit of meadowing part of the land every year and sometimes sold some of the hay produced. Lord Selborne, L.C., thought "pasture" meant the feeding of cattle and *other live stock*. Lord Fitzgerald went into the question at some length. He agreed with a passage in the judgment of the Lord Chancellor of Ireland in the court below, "Land let for the purposes not of *feeding cattle* on it, but of selling the grass and hay in the market, was not a letting for pasture in any sense of the word." And, dealing with the words "agricultural or pastoral," Lord Fitzgerald remarked: "'Agricultural' probably means 'cultivated by tillage,' but 'pastoral' is a misapplication. It means, in common parlance, rural, or rustic, or pertaining to shepherds. We may, however, give a free interpretation to the meaning of the Legislature as substantially represented by two words, viz., 'corn and *cattle*,' 'agricultural' meaning tilled land and 'pastoral' land in grass for feeding purposes." And further on the noble lord said that "for the purpose of pasture" was equivalent to "for the feeding of *cattle*, whether it be for grazing or fattening, or for dairy purposes," and he considered that a dairy farm (the expression used by the defendant) must mean a pasture farm, i.e., a farm under grass for feeding dairy cattle.

Subject to the comment that these judgments were, on this point, concerned with the question whether a meadow farm could be considered pastoral, they certainly tend to support the view that a poultry farm could not. Lord Selborne's "other live stock" would probably be interpreted on the *ejusdem generis* principle, so as to include horses, asses, and possibly sheep; at all events animals which could be said to graze. And Lord Fitzgerald's "feeding purposes," when not divorced from its context, seems to contemplate similar beasts. But, as mentioned, the denotation rather than the connotation was in issue; and the italics in the passages quoted are mine.

Those who desire to support the contrary view will probably resort to arguments based on the intentions of the Legislature. Assuming this to be a case in which such arguments are admissible, it might be said, broadly speaking, that the object of the Act was to confer a certain security of tenure and a right

to reap the fruits of their labours upon members of the farming community generally. This was implied in one of the arguments put forward on behalf of the tenant in *Re Joel's Lease*: *Berwick* v. *Baird* [1930] 2 Ch. 359, which decided that a stud farm was not an agricultural holding, though as regards fields used for grazing the tenant was entitled to the new special provisions of s. 33. In the course of the argument, plaintiff's counsel suggested that " pastoral " meant used for pasturing cattle or sheep and not horses, and their opponents submitted a very wide proposition : " The important point is that the man concerned is getting his living out of the land . . . If this was a chicken farm, it would have many of the qualities present in land used for the breeding of thoroughbred horses ; but it would not be suggested that a chicken farm is not an agricultural holding." It is, unfortunately, not possible to say whether this *reductio ad absurdum* impressed Maugham, J., or not, for his judgment proceeded on different lines ; he held that the purpose was not pastoral, though land used for breeding pedigree cattle might be an agricultural holding. And before leaving the question of intention, I might remark that the poultry farmer does not appear to require, to the same extent as others, the protection and benefits afforded by the Act.

It is worthy of comment that other modern statutes dealing with agricultural land have not used the word " agricultural " as meaning " cultivated by tillage " only, and this, of course, suggests the possibility of arguing—in the face of Lord Fitzgerald's " corn and cattle " ruling—that land used for a poultry farm is agricultural if not pastoral. The old Agricultural Rates Act, 1896, defined agricultural land as land used as " arable, meadow, or pasture ground " ; this would not help much. The Finance (1909-1910) Act, 1910, said : " ' agriculture ' *includes* the use of land as meadow, or pasture, or orchard or woodland . . . and ' agricultural land ' is to be construed accordingly " ; this would at least not exclude a poultry farm. But the Small Holdings and Allotments Act, 1908, provides that " agriculture " and " cultivation " shall include " horticulture and the use of land for any purpose of husbandry, including the keeping or breeding of live stock, *poultry* or bees." Lastly, the Rating and Valuation (Apportionment) Act, 1928 (which cleared the ground for de-rating), says (s. 2 (2)) : " ' Agricultural land ' means any land used as arable, meadow or pasture ground only . . . land exceeding one-quarter of an acre used for the purpose of a *poultry farm*, etc." In a case in which it was sought to apply the equivalent provisions of the Scottish Act to a silver fox farm (*Ardross Estates Co.* v. *Snow Belt Farms Ltd.*, Walker, De-rating Appeals in Scotland, 1930, p. 116), Lord Hunter said that agriculture in the widest sense included the rearing of livestock as well as the raising of crops, but that foxes did not represent an agricultural purpose ; Lord Sands refused to accede to the suggestion that it covered all uses of land for breeding animals, but said that it extended to the *breeding* of such animals as were associated with ordinary farms : horses, cattle, sheep, goats, pigs and *poultry*.

Lastly, another argument that a poultry farm is pastoral land might be founded on old authorities dealing with the law of common of pasture, which, it was said, was confined to the beasts of the plough if appendant, in that it then related to arable land, but might extend to swine, goats and other animals which may be sustained upon the common if the right were appurtenant (Co. Litt. 122a). Others have mentioned geese, and in *Morley* v. *Clifford* (1882), 20 Ch. D. 753, a copyholder of Barnes Manor set up a claim to pasture horses and geese on Barnes Common, and as regards the geese he failed only because there was no connection between them and the particular common. Apparently, then, geese can be pastured or fed on grass land ; whether the same can be said of chickens, who to the casual observer seem to derive sustenance from worms sustained by the grass rather than from the grass itself, is a question for a farmer rather than for a lawyer.

Our County Court Letter.

THE RIGHTS AND LIABILITIES OF ARCHITECTS.

A question of remuneration for the preparation of plans was considered at Stratford-on-Avon County Court in the recent case of *Dussault* v. *Knowles*. The plaintiff claimed £42 for professional services as an architect, but the defendant had paid into court £10 (and £1 10s. 2d. costs) in satisfaction of the amount due. The plaintiff's case was that (1) having been asked by an auctioneer to view Alveston Manor (with a view to converting it into a youth hostel and holiday camp) he had inspected the site with the defendant ; (2) she had then asked him to get out a scheme, which (as he thereupon pointed out) involved making a survey ; (3) he subsequently visited the premises on seven different occasions, as the estate was large and the buildings (including the fifteenth century house) were complicated. The defendant (who conducted her own case) contended that : (1) she had merely wished to know whether the roofs and floors could be repaired for £1,000 ; (2) anyone with a foot rule could have given this information ; (3) the defendant's plans were absurdly elaborate, especially with regard to the proposed lily pond, which would have been dangerous to children ; (4) the plaintiff, without actually saying so, had implied that he would do the work for nothing. His Honour Judge Drucquer observed that the defendant appeared to be satisfied that she was justified in defending the action on behalf of her organisation, but she had failed to show any appreciation of the value of professional work, e.g., as regards making a survey. Judgment was therefore given for the plaintiff for the amount claimed, and costs.

In *Lock* v. *Holcombe and Son*, recently heard at South Molton County Court, the claim was for £11 10s., as damages for breach of contract with regard to the drainage of two cottages, which had been reconditioned by the defendants. The latter pointed out that (on the certificate of the architect) they had been paid in full satisfaction, but the plaintiff's case was that (1) he must have forgotten that (without his consent) the course of a drain had been altered ; (2) he had thereby incurred extra expense in connecting it with the sewer. The architect's evidence was that he knew of no instructions for the alteration of the course of the drain, but assumed it had been duly authorised. His Honour Judge The Hon. W. B. Lindley observed that the new course of the drain was twice the length of the old, and, as the defendants would not have made such an alteration without authority, they were entitled to judgment with costs. Compare " Architect's Liability for Negligence " in the County Court Letter in our issue of the 6th August, 1932 (76 Sol. J. 556).

BANKRUPTS AS COMPANY DIRECTORS.

In the recent case of *In re Larmuth*, at Salford County Court, an application was made (under the Companies Act, 1929, s. 142) for leave to act as a director, and to take part in the management of Larmuth and Bulmer Limited. The applicant had obtained his discharge from bankruptcy on the 15th March, 1932, subject to a suspension of twelve months, and his case was that (1) he was chairman and managing director of the above company prior to his bankruptcy in September, 1931, (2) he had been re-appointed a director by a resolution of the company in June, 1932, but had not acted as such pending the removal of his disqualification. In a corroborative affidavit, the applicant's brother (the present chairman) stated that the shareholders were unanimous in desiring to avail themselves of the applicant's knowledge and experience. The Official Receiver agreed that the company would benefit from the services of the applicant, whose losses had not occurred in the company's business, but in outside transactions. His Honour Judge Crosthwaite observed that the applicant would be able to act without the leave of the court in six months, by which time his discharge from bankruptcy would have become effective. As no stigma had attached to the applicant in his bankruptcy, an order was made as asked.

Land and Estate Topics.

By J. A. MORAN.

There has been a decided improvement in the auction marts, both in London and the provinces, but the hammer is not as active as it ought to be. No doubt those who want to sell are not, as a rule, encouraged by the general anticipations of a gloomy nature that continue to receive prominence in some quarters, but the fact remains that many families are still on the look-out for suitable residential accommodation, and, owing to dissatisfaction at a 3½ per cent. interest on War Loan, there is much money available for speculation in another direction. There is, undoubtedly, a strong desire on the part of the investing public to buy freehold ground rents which, after all, enjoy a similar high-class reputation in the real estate market to Consols in the stock and share market. Some holders, who are willing to sell, are probably waiting for what appears to be an inevitable rise in values, while the majority of owners maintain a firm grip because they believe that a steady permanent income and capital security are preferable to the risk involved by exchanging into investments of a more fluctuating character.

The auction of Angmering-on-Sea was not a success, but the auctioneers did their part so well that there were many subsequent active inquiries and, as a result, several of the lots changed hands at excellent figures. There are a few more lots for disposal, but the negotiations in respect of these promise an early sale. The auction is still the best and surest means of finding purchasers, for if a transfer be not effected under the hammer, it provides an excellent means to an end.

The Benedictine monks appear to have dallied too long with their negotiations in respect to the purchase of Milton Abbey, as the famous Dorset mansion and lands that cover thirteen square miles were purchased by a speculator for the purpose of being put up to public competition shortly, in lots —the same individual, it appears, who acquired the Frampton Court Estate, near Dorchester, last year. This is a big proposition, and the real difficulties are those in evidence where farms, sometimes held for generations by the same family, are sold to strangers. In the case of Milton it is well known that the tenants have enjoyed very special privileges, and, naturally, they are much concerned over the situation. In this case, however, the purchaser is not without experience of deals of a similar character; and if he can make the enterprise a success in more than one instance there is no reason why he should not do so on other occasions. His chance came when the owner had reason to set particular value on an immediate sale without any of the responsibilities that attend an auction.

The use of views of large estates, taken from the air, for sale purposes, was not much in evidence during the summer months. It is not at all likely they will ever supplant those taken horizontally, except in the case of large works where the lay-out is a most important factor. On very large domains, however, there are particular views from well-known spots which could not well be omitted in illustrated particulars; taken from the air they might give a deceptive idea of the contents, whereas the natural undulations may be the principal attraction.

The greatness of the responsibilities thrust upon auctioneers can best be appreciated by a consideration of the weighty interests entrusted to their care. In many respects the family auctioneer is at times as confidential a personage as the family solicitor, and only those who have the highest qualifications should be allowed to practise. Yet it is in the power of any unscrupulous person to purchase a licence for £10 and carry on just as if he had passed, with honours, the qualifying examination of one of the leading professional organisations! The "mock auctioneer" who does the real harm is not the man who sells gilded trifles at the seaside, but the individual who takes over heavy responsibilities without the necessary knowledge or qualifications is a danger to the community. Unfortunately, he is with us still.

In these trying times it is not surprising that there appears to be an increasing tendency to seek occasional shelter in an island home. I understand the Duke of Montrose has just sold the Island of Inchmahone to Mr. J. A. Stewart.

Reviews.

Probate and Estate Duty Practice. By Edgar A. Phillips, LL.B., of the Principal Probate Registry. Third Edition. 1932. Demy 8vo. pp. xix and (with Index) 402. London, Liverpool and Glasgow: The Solicitors' Law Stationery Society, Ltd. 12s. 6d. net.

This volume provides a complete guide to the practice of the Probate Court and the Estate Duty Office. It includes references to the latest decisions of the courts and embodies all administrative directions up to date. It is a book which the legal practitioner can hardly do without if he is to avoid the trouble and delay and inconvenience (to say nothing of the risk of error) in handling matters relating to this particular branch of practice. Since the last edition was published many changes have taken place in practice. The Statutes of 1925 and subsequent amending Acts have brought modifications in their train and recent decisions have cleared up many points hitherto obscure. The volume before us takes note of the effects of the Administration of Justice Act, 1928, and also of the considerable changes in law and practice affecting the Estate Duty Office as a result of the Finance Act, 1932. It may be hoped that we have now reached some degree of finality in this matter—at least for a long time to come. Nothing is more trying to a busy practitioner than to have to cope with constant changes in legal practice of so universal a character as that of probate and estate duty; the practitioner, therefore, who is armed with a copy of Mr. Phillips' book, may at least feel confident that with its assistance he is not likely to fall into error.

Carriage of Goods by Sea Act, 1924. Fourth Edition. 1932. By Robert Temperley, a Solicitor of the Supreme Court, formerly of the Inner Temple, Barrister-at-Law, and Francis Martin Vaughan, of the Inner Temple, Barrister-at-Law. Demy 8vo. pp. xix and (with Index) 152. London: Stevens & Sons, Ltd. 10s. net.

It is five years since the last edition of this book and many important cases on the Act have been decided in that time—to quote only one or two, *Gosse-Millerd* v. *Canadian Government Merchant Marine* [1929] A.C. 223; *Foscolo Mango & Co., Ltd.* v. *Stag Line* [1932] A.C. 328; and *The Torni* [1932] P. 78. Therefore Mr. Temperley's very interesting discussion of the effects of the Act and the Rules is now supplemented by much authority, both English and foreign, which was not available for previous editions. But despite the existence of this further authority there are still very many points which have not been judicially determined, and Mr. Temperley's discussion of the questions raised is still of great value, and his views—as, of course, any views of his on matters of this kind—merit close attention. The present edition has a new feature in that it includes a summary of the progress (or absence of progress) of the legislation in the various countries of the world to give effect to the Hague Rules. This should prove quite useful.

The appearance of four editions of Mr. Temperley's book within eight years is sufficient proof both of the importance of the subject-matter of the book and of the excellence of the book itself, and we have no hesitation in recommending this new edition.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London and Liverpool.]

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Liability for Flood Damage.

Q. 2578. A is the owner of property adjacent to a river. B is the owner of property on the opposite side, and has built a high retaining wall to hold back a big quarry dump. The retaining wall on B's property has subsided, and the river is causing damage to A's property by flooding by reason of the fact that the water is diverted to his side through the tip coming down and filling the bed of the river. B argues that the subsidence took place thirty years ago, and presumably that any claim against B by A is barred by the Statutes of Limitations. A, on the other hand, argues that it is a continuing nuisance, and that it is only during recent years that his property has been damaged to any appreciable extent.

(1) Has A a cause of action against B ?

(2) If so, what is A's appropriate remedy ?

(3) Can A compel B to reinstate the wall ?

A. Similar facts were considered in *Gerrard* v. *Crowe* [1921] A.C. 395, but there is a distinction, viz., that in the present case B has not built the retaining wall as a protection against flooding. The fact that the plaintiff failed in the first-named case, *supra*, is therefore no authority for saying that there is no cause of action in the present case. On the other hand, the length of time over which the nuisance has continued may enable B to claim a prescriptive right, so that A may have difficulty in showing an appreciable increase in recent years. A's cause of action against B for nuisance is, therefore, not strong ; but there appears to be evidence to justify proceedings in the county court under the Rivers Pollution Prevention Act, 1876. In spite of its title, the Act does not require proof of actual pollution, as s. 2 creates an offence by the mere permitting to fall or to be carried into any stream so as to interfere with its due flow the solid refuse of any quarry. A should, therefore, approach the sanitary authority, with a view to their taking proceedings (after obtaining the consent of the Minister of Health), as provided by s. 6. If the sanitary authority (in pursuance of an economy campaign, for example) refuse to intervene, A can approach the Minister direct. On the specific points raised :—

(1) A has a cause of action against B, but the evidence shows that A's chances of success are doubtful.

(2) A's appropriate remedy is, therefore, under the above-mentioned Act.

(3) A cannot compel B to reinstate the wall, but this may be ordered as "the best practicable and available means" for carrying into effect the judgment of the court, under s. 10.

Solicitor's Custody of Papers.

Q. 2579. A solicitor A acted for B and C, who were concerned in a joint venture of purchasing a site, erecting a building and disposing of the property. Differences subsequently arose between B and C with the result that C consulted a new solicitor. A delivered a bill of costs to B and C and commenced proceedings in respect thereof but only proceeded with the action against C who was in a position to pay. C settled A's claim in respect of his costs due from B and C. A still acts for B. C has called upon A to hand over the papers relating to the affairs of B and C as he has paid A's costs. A refuses to do so without B's authority, which, of course, is not forthcoming. As C has paid A's charges, can he insist upon delivery up of all original and copy documents relating to the affairs of B and C in which A acted as solicitor for them jointly ?

A. As A's costs have been paid, he is not entitled to set up a lien over the papers. The fact that C has paid A's costs, however, does not entitle C to claim the papers, in which he is jointly interested with B. The court would not grant a summary order against A to deliver up the papers, as shown by *Ex parte Cobeldick* (1883), 12 Q.B.D. 149. It was there pointed out by Brett, M.R., that it was not clearly made out that the solicitor was holding the document for the applicant alone and as his solicitor. In that case (as pointed out by Bowen, L.J.), all that was shown was a case in which the party ought to establish his right by an action at law. The same applies to the present case, and, if A is sued, he should bring in B on a third party notice. If A and B are sued jointly, A should apply for an issue to be tried between B and C, A to abide the event, and to receive his costs from the unsuccessful party. A is unable to decide, as between B and C, who has the better title, and A may interplead under R.S.C. Ord. LVII, r. 1, without waiting to be sued.

Accident to Aged Workman.

Q. 2580. A, who was aged seventy-two, was engaged as a watchman in connection with excavations, and was knocked down by a motor van driven by B. A was taken to hospital, and died from embolism of the lung. The doctor states that pneumonia was set up as the direct result of the accident. A had not had medical attention prior to the accident for over twenty years. The motor van was negligently driven by B, aged eighteen, who stated at the inquest that he was employed as a pork butcher by his father. The pork butcher business is carried on as "G. R. & Son." The name of the son is "D. R." The father is a publican. The verdict at the inquest was "Accidental death, caused by injuries sustained in the course of employment through the negligent driving of the motor van, but not sufficient to justify manslaughter." The police issued a summons prior to death for reckless driving, and this is down for hearing, but whether it will be amended to manslaughter is not known. The evidence at the inquest was very strong against the driver. The total income of the deceased was as follows : 15s. 3d. per week-end as watchman, 10s. old age pension, and 15s. pension from prior employers, being a total of £2 0s. 3d. per week. The widow also has the old age pension of 10s. per week. Will you please advise the best form of action to take on behalf of the widow ? Should compensation be claimed from the employers, or should B's father be sued for damages on the ground that B was the agent of his father, as he was returning home after delivering goods belonging to the business ? If compensation proceedings are taken, it is assumed the damage could only be based on the actual earnings and not on the two pensions. The accident happened at 8.45 in the evening. There is an insurance policy in the name of "G. R. & Son." The doctor stated that but for the accident A could have lived another seven or ten years. All the family of A have married with the exception of one, who simply pays board and lodgings.

A. An action under Lord Campbell's Act should be started against the firm of "G. R. & Son," but notice of the accident should be given to the employers—for the purpose of preserving rights under the Workmen's Compensation Act.

The latter only confers the right to an award for loss of earning capacity, and income from other sources (e.g., pensions) is irrelevant. The doctor's evidence as to expectation of life is an exaggeration, and should not be accepted as a reliable basis for negotiations, in the event of a settlement being suggested.

Aggregation—Estate sub £1,000.

Q. 2581. A testator died leaving estate value £900, having within the three years of his death made an absolute gift of bonds of value £500. The Revenue claimed, on probate of the will, estate duty on testator's estate of £900 at 3 per cent., even though the estate passing on the death was under £1,000, and a further claim is now made for legacy duty on his estate even though under £1,000. The Revenue claim that the gift is aggregable with the value of the estate actually passing on the death. The executors contend that though the gift is *deemed* to have passed on the death it only so passes for the purpose of attracting the appropriate duty on the subject matter of the gift, and that the value of the gift is not aggregable with the estate actually passing. The Revenue refer to s. 16 (3) of the F.A., 1894, the phrasing of which is conspicuously confusing, but it would seem to be clear in its referring only to property "passing on the death" and not to property "deemed to have passed." Being in effect a penal statute, it is contended that the words of the section must be strictly construed. Is the claim of the Revenue in this case to aggregate justified? And if so, on what authority?

A. The claim made by the Estate Duty Department is in accordance with the practice of the department, and appears to be justified in law. Section 16 (3) exempts from aggregation in the calculation of sub £1,000 estates only property "settled" otherwise than by the will of the deceased. All other property on which estate duty is payable on the death of deceased is aggregable. Settled property is defined in s. 22 as property comprised in a settlement and "settlement" is further defined as an instrument which is, or would if the property comprised therein were real property, be a settlement within S.L.A., 1882. Unless therefore the bonds were settled within this definition, s. 16 (3) is not applicable.

Obituary.

Mr. H. A. WIX.

Mr. Herbert Alexander Wix, barrister-at-law, died at Byfleet on Friday, the 23rd September, at the age of eighty-four. He was educated at King's College School and Trinity College, Cambridge, and was called to the Bar by the Inner Temple in 1872. He became a liveryman of the Skinners' Company in 1871, and was elected Master for the year 1884-85.

Mr. J. J. BICKERSTETH.

Mr. John Joseph Bickersteth, C.B.E., late Clerk of the Peace and of the County Council of the East Riding of Yorkshire, died at Ashburnham, Sussex, on Thursday, the 22nd September, at the age of eighty-one. Mr. Bickersteth was educated at Marlborough and Christ Church, Oxford, and was called to the Bar by the Inner Temple in 1875. He practised for some years on the Northern Circuit and at the Parliamentary Bar, until, in 1882, he became Clerk of the Peace of the East Riding of Yorkshire, being one of the few barristers appointed to a post more often held by a solicitor. He was appointed Clerk to the County Council in 1889, and held that office until his retirement in 1925.

Mr. H. J. CREED.

Mr. Harold John Creed, solicitor, of Barnet, Herts, who practised there as Messrs. Poole & Creed, died on Monday, the 19th September, at the age of sixty-four. Mr. Creed, who was admitted a solicitor in 1912, acted as Solicitor to Barnet Urban District Council, and was also Clerk and Solicitor to South Mimms Rural District Council.

Mr. J. G. THOMPSON.

Mr. John Grundy Thompson, solicitor, senior partner in the firm of Messrs. Henry Thompson & Sons, of Grantham, died there on Monday, the 26th September, at the age of eighty-eight. Born at Grantham, the eldest son of the late Mr. Henry Thompson, solicitor, he entered his father's office on leaving school, and was admitted a solicitor in 1866. After his father's death he carried on the practice in partnership with his brother Mr. Fred W. Thompson. Mr. Thompson was senior magistrate on the Grantham bench, and had also been Registrar of the Grantham County Court for more than fifty years, retiring from that office only recently. He was also Chairman of Directors of the Grantham Gas Company and of the Grantham Water Company.

Mr. D. MUSTARD.

Mr. Donald Mustard, solicitor, partner in the firm of Messrs. Grigor & Young, of Elgin, died on Monday, the 26th September, at the age of seventy-four. He had been a partner in the firm for forty years.

In Lighter Vein.

The Week's Anniversary.

It is surprising how rarely a man comes straight to the Bar. Thus, Richard Torin Kindersley, who was born at Madras on the 5th October, 1792, was at first destined to follow his father into the Indian Civil Service. Fortunately, however, he changed his mind, and after taking his M.A. at Cambridge, he was called in 1818 at Lincoln's Inn. There he built up a very lucrative practice of the unspectacular description usual in Chancery. He had no political strings to pull, but his profound learning soon marked him out for a judgeship. In 1847 he became Chancellor of the County Palatine of Durham, in 1848 a Master in Chancery, and in 1851 Vice-Chancellor, a position which he held for fifteen years of very meritorious service. He lived to enjoy his pension of £3,500 per annum for thirteen years after his retirement.

Vacation Decrees.

The making absolute of decrees *nisi* is ordinarily among the lightest duties of a Vacation judge. It is lighter, for example, than the risk of being tracked down for an injunction during a bathe like Vice-Chancellor Shadwell, or on Brighton Pier like Mr. Justice Hawkins. Sir Robert Phillimore, however, found the formality exceedingly painful by reason of his conscientious objections to divorce. Once, therefore, when the vacation imposed the duty on him, he opened with the following disdainful prelude—a sort of moral barge pole with which he touched the distasteful business: "I have now to pronounce decrees absolute in the cases of several persons who are anxious to annul their matrimonial ties with the view of contracting others."

Dickens the Second.

The foreshadowed withdrawal from public service of Sir Henry Dickens, K.C., the Common Serjeant, whom the Old Bailey Bar Mess are entertaining to a farewell dinner, carries the memory back to those early years before the veteran judge of to-day had made his own great reputation, and when his main claim to attention was that he was the son of his father. While he was a junior member of the Home Circuit, the famous Mr. Baron Bramwell once entertained the Bar to dinner at Maidstone. The young man was presented to the judge by an older colleague, who said: "My lord, allow me to introduce to your lordship a son of the well-known Charles Dickens." "Well-known Charles Dickens!" repeated the judge with characteristic emphasis, "you might as well say 'well-known Julius Cæsar!'." Then he shook the young man cordially by the hand, saying: "I hope, sir, you will

be a credit to your father." One retirement which fortunately is not to be expected is that of Lord Merrivale, since before the end of last term, in fixing the date of a case for the Michaelmas sittings, he added: "I will hear it myself." There are various ways of conveying such information. Lord Esher, M.R., when baseless rumours were current that his resignation was in the Lord Chancellor's hands, bought a brand-new wig.

TELEPHONES AND JUDGES.

At Whitechapel County Court recently Judge Cluer vented some scathing comments on the subject of his sufferings at the hands of the telephone service. It seems that he was given the same number as a butcher, and was constantly brought from his bed at night to deal with orders for meat. His complaint reminds one that Judge Parry has also experienced the whimsical humour of the Exchange. While he was bringing out his book on "The Bloody Assize," he had occasion to ring up his publisher. But hardly had he pronounced the title—so the story goes—when the telephone girl broke in with: "I am sorry to trouble you, but you mustn't talk like that over the 'phone." Then she cut him off.

Rules and Orders.

THE CHANCERY OF LANCASTER (SOLICITORS REMUNERATION) RULES, 1932. DATED SEPTEMBER 6, 1932.

The Right Honourable John Colin Campbell Davidson, C.H., C.B., M.P., Chancellor of the Duchy and County Palatine of Lancaster with the advice and consent of Sir Courthope Wilson, Knight, K.C., the Vice Chancellor of the said County Palatine and with the approval of the Authority empowered to make rules for the Supreme Court in pursuance of the powers and authorities in that behalf given to him by the Chancery of Lancaster Acts, 1850 to 1890* and all other powers and authorities enabling him in that behalf doth hereby order and direct as follows:—

1. The Chancery of Lancaster (Solicitors Remuneration) Rules 1926† are hereby revoked and these Rules shall be substituted therefor.

2. The total in any bill of costs of the fees prescribed by the Order as to Solicitors' costs under the Court of Chancery of Lancaster Act 1850 and the Court of Chancery of Lancaster Act 1854 dated the 27th November 1884‡ (as distinct from payments) shall in respect of business done in any cause or matter in the Court of Chancery of the County Palatine of Lancaster be increased as follows, that is to say:—

(*a*) if done after the 31st day of August 1919 and before the 12th day of October 1932 by 33⅓ per centum,

(*b*) if done after the 11th day of October 1932 by 25 per centum,

and any such increase shall be allowed upon any taxation of costs in respect of any such business as well between party and party as between Solicitor and Client and in taxations under or pursuant to the Solicitors Act 1932§.

3. Rule 2 hereof shall not:—

(*a*) apply to the remuneration prescribed by or under the Solicitors Remuneration Act 1881¶ or Section 56 of the Solicitors Act 1932,

(*b*) affect the question whether a bill of costs when taxed is or is not less by one-sixth part than the bill delivered, sent or left,

(*c*) affect any power to direct payment of a fixed or gross sum in respect or in lieu of costs, or,

(*d*) apply to bills of costs which had before the 2nd day of August 1920 been delivered to the clients sought to be charged therewith or to the person chargeable therewith or liable therefor or to bills then already taxed certified or allowed.

4. These Rules may be cited as The Chancery of Lancaster (Solicitors Remuneration) Rules 1932 and shall come into force on the 12th day of October 1932.

Dated the 6th day of September, 1932.

J. C. C. Davidson, Chancellor.
Courthope Wilson, Vice Chancellor.

Approved by the Rule Committee of the Supreme Court.
Claud Schuster.

* 13-4 V. c. 43; 17-8 V. c. 82; 53-4 V. c. 23. † S.R. & O. 1926 (No. 923) p. 729.
‡ S.R. & O. Rev. 1904, VI, Lancaster (Court of Chancery), p. 232.
§ 22-3 G. 5. c. 37. ¶ 44-5 V. c. 44.

THE DISTRESS FOR RENT (AMENDMENT) RULES, 1932. DATED SEPTEMBER 20, 1932.

1. These Rules may be cited as the Distress for Rent (Amendment) Rules, 1932, and shall come into operation on the 1st day of October, 1932, and shall be read and construed with the Distress for Rent Rules, 1920,* which shall have effect as amended by these Rules.

2. Rule 13 of the Distress for Rent Rules, 1920, is hereby revoked, and the following Rule shall be substituted therefor:—

"13. A general certificate shall (unless previously cancelled or declared void) have effect until the 1st February next after the granting thereof, and may be from time to time renewed by the Judge of the Court from which it was granted for a further period of 12 months."

Dated the 20th day of September, 1932.

Sankey, C.

* S.R. & O. 1920 (No. 1712) I., p. 496.

Societies.

The Law Society.

ANNUAL PROVINCIAL MEETING.

The Council of The Law Society have settled the following course of procedure to be adopted at the Forty-eighth Provincial Meeting, to be held on Tuesday and Wednesday, the 4th and 5th October, 1932, at The University, Bristol (Mr. Charles Edward Barry, President):—

Tuesday, 4th October, 1932, at 10.30 a.m., at The University, Bristol. The proceedings will commence with the President's Address, after which the following Papers will be read: "Commercial Case Law and Arbitration," J. Walter Robson (President of the Manchester Law Society); "The Lessening Shadow of the Landowner," Sir William Hart (Sheffield); "The Borough Courts," William W. Veale, LL.D. (Lond.) (Bristol); "Town Planning," Josiah Green (Town Clerk, Bristol); "Reorganisation of the Civil Courts," H. J. Randall, LL.B., F.S.A. (Bridgend).

Wednesday, 5th October, 1932, at 10.45 a.m., at The University, Bristol. "Some Recent Examples of England Borrowing from the Law of Scotland," R. M. Williamson, LL.B. (Edinburgh) (Advocate, Aberdeen); "The Solicitor's Right of Audience," B. A. Wortley, LL.B. (Mirfield, and of the Law Department, London School of Economics and Political Science, University of London); "The High Cost of Litigation in England, its Causes and Remedies," A. C. Hillier (Bath).

The President may make such alteration in the order of the Papers as he may think convenient.

The Annual General Meeting of The Solicitors' Benevolent Association will be held at 10 a.m. on Wednesday, the 5th October.

Law Students' Debating Society.

The ninety-fourth annual session of the Law Students' Debating Society will commence on Tuesday, 4th October, 1932, and the debates will be held as from that date on Tuesday in every week.

P. H. NORTH LEWIS,
Junior Secretary.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve the appointment of MR. MAHIM CHANDRA GHOSH as a Puisne Judge of the High Court of Judicature at Calcutta in the vacancy which will occur on 4th November on the retirement of Mr. Justice Graham.

His Honour Judge Whitmore Richards has appointed Mr. T. H. WHITELEY and Mr. A. O. BEVAN, the registrars of the Crewe and Nantwich County Court, registrars of the Northwich Court.

Colonel T. RIDGWAY, the Warrington registrar, has been appointed registrar of the Runcorn County Court.

Professional Announcement.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

LAW PUBLICATIONS.

A Supplement of Law Publications is given with this number in the hope that it will prove of interest to readers of THE SOLICITORS' JOURNAL.

It contains the announcements of the leading Law Publishers, many of the publications listed being of immediate use to the profession.

Alphabetical indices to subjects and to authors are included, and readers are invited to retain the Supplement for reference.

OPENING OF THE LAW COURTS. SERVICE AT WESTMINSTER ABBEY.

WEDNESDAY, 12TH OCTOBER, 1932.

On the occasion of the re-opening of the Law Courts, a Special Service, at 11.45 a.m., will be held in Westminster Abbey, at which the Lord Chancellor and His Majesty's judges will attend.

In order to ascertain what space will be required members of the Junior Bar wishing to be present are requested to send their names to the Secretary of the General Council of the Bar, 5, Stone-buildings, Lincoln's-inn, W.C., before 4 p.m. on Monday, the 10th October.

Barristers attending the service must wear robes. All should be at the Jerusalem Chamber, Westminster Abbey (Dean's Yard Entrance), where robing accommodation will be provided, not later than 11.30 a.m.

A limited number of seats in the South Transept will be reserved for friends of members of the Bar, to whom two tickets for these seats will be issued on application to the Secretary of the General Council of the Bar.

No tickets are required for admission to the North Transept, which is open to the public. THOMAS INSKIP, Attorney-General.

JUDGE TOBIN'S RETURN TO WESTMINSTER.

His Honour Judge Sir Alfred Tobin resumed his seat at Westminster County Court on Tuesday, 27th September, after the serious illness that befel him at Whitsuntide.

When bar and public rose to receive the judge, Mr. W. L. James asked to be allowed on behalf of the Bar to express their pleasure at seeing his honour presiding once more over the court and their congratulations upon his recovery.

Mr. F. H. Adams, one of the oldest solicitors practising in the court, added that the solicitors equally rejoiced to see his honour back again, and trusted that he would continue with them for very many years.

Mr. R. W. H. Hortin, as one of the younger solicitors, endorsed the expressions of welcome and congratulation.

Judge Sir Alfred Tobin was evidently affected by the warmth of the greeting, and, after a pause, replied: "I feel very deeply all that has been said. I am grateful indeed—no one knows how grateful—to be able to preside once more in my own court of Westminster. Not only to-day, but throughout my long illness, I have been greatly strengthened by the cheering greetings and inquiries throughout the whole time of my brother judges, counsel and solicitors, and the registrars of this court, and the whole staff of this court, and also the Press.

"Justice must always be done to the satisfaction of the public when all those concerned in its administration are good and trusted friends, and that is the happy position in which, with the support of everyone concerned with the administration of justice in this court, I find myself to-day.

"Since I last sat in this court, some months ago, Mr. Jacob, who has been so many years associated—more than twenty years—as joint registrar with Mr. Cuff, has retired. To me, the Bar, and the whole profession, and his colleagues—Mr. Cuff and everyone connected with the work here—Mr. Jacob was a very dear friend, and he earned, as he deserved to earn, our affection and respect. He was always anxious to study the convenience of those who represent the litigants. His heart was set on making the wheels of justice run smoothly. I shall miss him greatly as an official who rendered me always the most valuable assistance.

"He is succeeded by Mr. Wilfred Harry Greenhow, who comes to us with a high reputation from the very important county court of Leeds. I congratulate the public on Mr. Greenhow's appointment, and on behalf of the court, tender him a most sincere welcome."

A silver loving cup was recently presented to Mr. Jacob by members of the legal profession practising at Westminster as a memento of his long service there, and a token of their esteem.

BOROUGH OF WALSALL.

The next General Quarter Sessions of the Peace for the Borough of Walsall will be held at the Guildhall, Walsall, on Thursday, the 6th day of October, 1932, at 10 o'clock in the forenoon.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement Thursday, 6th October, 1932.

	Middle Price 28 Sept. 1932.	Flat Interest Yield.			†Approximate Yield with redemption		
		£	s.	d.	£	s.	d.
English Government Securities.							
Consols 4% 1957 or after	107¼	3	14	7	3	10	11
Consols 2½%	73½	3	8	0	—		
War Loan 5% 1929-47 Assented	101xb	3	9	10	—		
**War Loan 4½% 1925-45	102	—			—		
Funding 4% Loan 1960-90	107½xd	3	14	5	3	11	5
Victory 4% Loan (Available for Estate Duty at par) Average life 31 years	107½	3	14	5	3	11	10
Conversion 5% Loan 1944-64	115xd	4	6	11	3	9	1
Conversion 4½% Loan 1940-44	110½	4	1	5	3	0	2
Conversion 3½% Loan 1961 or after	99	3	10	8	—		
Local Loans 3% Stock 1912 or after	86	3	9	9	—		
Bank Stock	317½xd	3	15	7	—		
India 4½% 1950-55	104	4	6	6	4	3	8
India 3½% 1931 or after	82½	4	4	10	—		
India 3% 1948 or after	70½	4	5	1	—		
Sudan 4½% 1939-73	106	4	4	11	3	9	1
Sudan 4% 1974 Redeemable in part after 1950	105	3	16	2	3	12	4
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	100	3	0	0	3	0	0
Colonial Securities.							
Canada 3% 1938	99	3	0	7	3	3	11
*Cape of Good Hope 4% 1916-36	100xd	4	0	0	4	0	0
Cape of Good Hope 3½% 1929-49	98	3	11	5	3	13	2
Ceylon 5% 1960-70	110	4	10	11	4	7	2
*Commonwealth of Australia 5% 1945-75	105	4	15	3	4	9	8
Gold Coast 4½% 1956	106	4	4	11	4	1	10
*Jamaica 4½% 1941-71	102xd	4	8	3	4	4	2
*Natal 4% 1937	100	4	0	0	4	0	0
*New South Wales 4½% 1935-45	99	4	10	11	4	12	1
*New South Wales 5% 1945-65	105	4	15	3	4	9	8
*New Zealand 4½% 1945	103	4	7	5	4	3	6
*New Zealand 5% 1946	106	4	14	4	4	7	9
Nigeria 5% 1950-60	112	4	9	3	4	0	2
*Queensland 5% 1940-60	102	4	18	0	4	14	0
*South Africa 5% 1945-75	109	4	11	9	4	1	10
*South Australia 5% 1945-75	103	4	17	1	4	13	9
*Tasmania 5% 1945-75	103	4	17	1	4	13	9
*Victoria 5% 1945-75	103	4	17	1	4	13	9
*West Australia 5% 1945-75	102	4	18	0	4	15	9
Corporation Stocks.							
Birmingham 3% 1947 or after	84½	3	11	0	—		
*Birmingham 5% 1946-56	111	4	10	1	3	19	3
*Cardiff 5% 1945-65	108	4	12	7	4	3	9
Croydon 3% 1940-60	92	3	5	3	3	9	0
*Hastings 5% 1947-67	111½	4	9	8	3	19	4
Hull 3½% 1925-55	97½	3	11	10	3	13	4
Liverpool 3½% Redeemable by agreement with holders or by purchase	97	3	12	2	—		
London County 2½% Consolidated Stock after 1920 at option of Corporation	71	3	10	5	—		
London County 3% Consolidated Stock after 1920 at option of Corporation	85½	3	10	2	—		
Manchester 3% 1941 or after	84	3	11	5	—		
Metropolitan Water Board 3% "A" 1963-2003	85	3	10	7	3	11	8
Do. do. 3% "B" 1934-2003	86	3	9	9	3	10	9
*Middlesex C.C. 3½% 1927-47	99	3	10	8	3	11	10
Do. do. 4½% 1950-70	110	4	1	10	3	14	6
Nottingham 3% Irredeemable	83½	3	11	10	—		
*Stockton 5% 1946-66	111	4	10	1	3	19	3
English Railway Prior Charges.							
Gt. Western Rly. 4% Debenture	98½	4	1	3	—		
Gt. Western Rly. 5% Rent Charge	111	4	10	1	—		
Gt. Western Rly. 5% Preference	75½	6	12	6	—		
L. Mid. & Scot. Rly. 4% Debenture	90½	4	8	5	—		
L. Mid. & Scot. Rly. 4% Guaranteed	74	5	8	1	—		
Southern Rly. 4% Debenture	93½	4	5	7	—		
Southern Rly. 5% Guaranteed	101½	4	18	6	—		
Southern Rly. 5% Preference	64½	7	15	0	—		
‡L. & N.E. Rly. 4% Debenture	82½	4	17	0	—		
‡L. & N.E. Rly. 4% 1st Guaranteed	62½	6	8	0	—		

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other stocks, as at the latest date.

‡These Stocks are no longer available for trustees, either as strict Trustee or Chancery Stocks, no dividend having been paid on the Company's Ordinary Stocks for the past year.

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